

[COUNSEL LISTED ON SIGNATURE PAGE]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HOLOGIC, INC., CYTYC CORPORATION,  
and HOLOGIC L.P.,

Plaintiffs,

vs.

SENORX, INC.,

Defendant.

AND RELATED COUNTERCLAIMS.

Case No. C08 00133 RMW (RS)

**JOINT CLAIM CONSTRUCTION  
STATEMENT (PATENT L.R. 4-3)**

Markman Hearing  
Date: June 25, 2008  
Time: To Be Set  
Room: Courtroom 6, 4<sup>th</sup> Floor  
Judge: Hon. Ronald M. Whyte

1 Plaintiffs Hologic, Inc., Cytac Corporation, and Hologic L.P. (collectively "Hologic") and  
 2 Defendant SenoRx, Inc. ("SenoRx") respectfully submit this Joint Claim Construction Statement.

3 Attached hereto as Exhibit A are charts setting forth the parties' proposed constructions of  
 4 certain disputed terms, phrases, and clauses in the asserted claims of U.S. Patent Nos. 5,913,813 (the  
 5 "'813 patent"), 6,413,204 (the "'204 patent"), and 6,482,142 (the "'142 patent") (collectively, "the  
 6 patents-in-suit").

7 Attached hereto as Exhibit B are charts setting forth the parties' agreed proposed constructions  
 8 of certain disputed terms of the patents-in-suit.

9 The claim construction charts in Exhibits A and B attached hereto are based on discovery  
 10 exchanged between the parties to date as well as arguments in the parties' opening claim construction  
 11 briefs. The parties reserve the right to modify and/or supplement the positions set forth herein if  
 12 justified by newly produced discovery, new positions asserted in the parties' responsive claim  
 13 construction briefs, or otherwise.

14 Dated: May 30, 2008

HOWREY LLP

15 By: /s/ Henry C. Su  
 16 Henry C. Su

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20 Attorneys for Plaintiffs  
 21 Hologic, Inc., Cytac Corporation, and Hologic L.P.

22 Dated: May 30, 2008

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23 By: /s/ Rachel Shanahan Rodman (with permission)  
 24 Rachel Shanahan Rodman

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28 Attorneys for Defendant  
 SenoRx, Inc.

**Filer's Attestation**

I, Henry C. Su, am the ECF User whose identification and password are being used to file this Joint Claim Construction Statement. Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from Rachel Shanahan Rodman.

Dated: May 30, 2008

By: /s/ Henry C. Su  
Henry C. Su

**PROOF OF SERVICE**

I am employed in the County of San Mateo, State of California. I am over the age of 18 and not a party to the within action. My business address is 1950 University Avenue, 4th Floor, East Palo Alto, California 94303.

On May 30, 2008, I served on the interested parties in said action the within:

**JOINT CLAIM CONSTRUCTION STATEMENT**

by placing a true copy thereof in a sealed envelope(s) addressed as stated below and causing such envelope(s) to be deposited in the U.S. Mail at East Palo Alto, California.

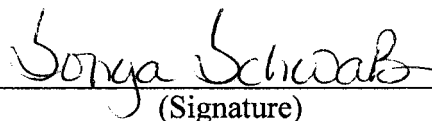
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☒ (EMAIL/ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the submission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on May 30, 2008, at East Palo Alto, California.

Sonya Schwab  
(Type or print name)

  
(Signature)

## **Exhibit A**

**EXHIBIT A.1**  
**Parties' Proposed Constructions Of Disputed Terms In U.S. Patent No. 5,913,813**

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"inner spatial volume"</p> <p>(claims 1, 2, 12)</p>	<p>"a region of space surrounded by an outer spatial volume and either enclosed by a polymeric film wall or defined by the outside surface of a solid radionuclide"</p> <p><u>Support:</u></p> <p>Abstract  Col. 1:50 – col. 2:3  Col. 2:33-38, 44-63  Col. 3:9-16, 42-48  Col. 3:64 – col. 4:12  Col. 4:16-20, 21-31, 32-52  Figs. 1, 3-5</p> <p>Notice of allowability (12-18-98) at 2</p> <p>September 8, 1998 Amendment at 3-7</p> <p>4-27-07 Claim Construction Order at 3-5, 28 (Case No. C-05-05312 RMW), and all evidence of record relating to the claim construction proceeding in that case.</p> <p>4-25-08 Order Denying Plaintiffs' Motion For Preliminary Injunction at 6-8.</p> <p>Verhey Decl. at 3:17-4:4, Ex. C at 7:11-15.</p> <p>Verhey Reply Decl. ¶¶ 10-13</p>	<p>"a region of space surrounded by an outer spatial volume and either enclosed by a distensible polymeric film wall or defined by the outside surface of a solid radionuclide sphere"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 1:50-57  Col. 2:34-42  Col. 2:44-46  Col. 2:56-63  Col. 3:39-42  Figs. 1, 3, 4  Abstract</p> <p>Orton Decl. ¶¶ 22-24.</p> <p>Xoft Claim Constr. Order at 3-5, 16</p> <p>See SenoRx Op. Br. at 11-14 &amp; Resp. Br. 11-14 and references cited therein.</p> <p>See <i>also</i> support for "inner spatial volume" in '204 patent.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"predetermined constant spacing between said inner spatial volume and the radiation transparent wall"</p> <p>(claim 1)</p>	<p>"spacing predetermined by one skilled in the art between the wall or edge of the inner spatial volume and the radiation transparent wall of the outer, closed, inflatable chamber, when inflated, which is constant in all directions if the outer chamber is spherical, or constant along a radial plane if the outer chamber is not spherical"</p> <p><u>Support:</u></p> <p>Abstract Col. 1:26 – 46 Col 3:10-13 Col 4:13-20 Col. 4:21-31</p> <p>Notice of allowability (12-18-98) at 2</p> <p>September 8, 1998 Amendment at 3-7</p> <p>4-27-07 Claim Construction Order at 6-7, 28 (Case No. C-05-05312 RMW), and all evidence of record relating to the claim construction proceeding in that case</p> <p>Verhey Decl., Ex. C at 7:2-5.</p> <p>Verhey Reply Decl. ¶¶ 4-5, 10-13.</p>	<p>"fixed spacing, predetermined by one skilled in the art before administering radiation, between the wall or edge of the inner spatial volume and the radiation transparent wall of the outer, closed inflatable chamber, when inflated, which for each point on the wall or edge of the inner spatial volume, the distance to the closest point on the outer chamber is the same (i.e., the inner spatial volume and outer chamber are concentric and the same shape)"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 1:50-57 Col. 2:44-46 Col. 2:56-63 Col. 3:10-38 Col. 4:13-20 Figs. 1, 3, 4 Abstract</p> <p>'813 Pros. Hx. Am. &amp; Resp. 5-7</p> <p>Orton Decl. ¶¶ 25-32.</p> <p>Cytoc Cl. Constr. Br. at 7, 15.</p> <p><i>Xoft Markman</i> Tr. at 71.</p> <p>Williamson Tr. at 99-100.</p> <p>Dempsey Tr. at 32, 72-73.</p> <p>See SenoRx Op. Br. at 4-7 &amp; Resp. Br. 4-7 and references cited therein.</p> <p>See also support for "predetermined spacing . . ." in '204 patent.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"means...for rendering uniform the radial absorbed dose profile of the emissions from the one of the inner spatial volume and outer chamber containing the radionuclides"</p> <p>(claim 1)</p>	<p><i>Function:</i> making the absorbed dose of radiation more uniform to prevent over-treatment of body tissue at or close to the outer wall of the instrument</p> <p><i>Structure:</i> a radiation absorbing or attenuating material, e.g., air, x-ray contrast fluid, contrast media used in angiography, water, a gas, or barium sulfate or their equivalents</p> <p><u>Support:</u></p> <p>"Uniform"—"Always the same, as in character or degree, unvarying" (The American Heritage College Dictionary (3<sup>rd</sup> Ed. 1997), "AHD"))</p> <p>Abstract Col. 1:26-46 Col. 1:50 – col. 2:3 Col. 2:44-63 Col. 3:14-38 Col. 3:49 – col. 4:12 Col. 4:21-31 Col. 4:56-61 Figs. 1, 3-5</p> <p>Notice of allowability (12-18-98) at 2</p> <p>September 8, 1998 Amendment at 3-7</p> <p>4-27-07 Claim Construction Order at 8-10, 28 (Case No. C-05-05312 RMW) ), and all evidence of record relating to the claim construction proceeding in that case</p> <p>Verhey Decl., Ex. C at 6:21-28.</p> <p>Verhey Reply Decl. ¶¶ 14-16.</p>	<p><i>Function:</i> making the absorbed dose of radiation substantially more uniform between the surface of the outer chamber and a predetermined depth in the target tissue</p> <p><i>Structure:</i> a radiation absorbing or attenuating material, e.g., air, x-ray contrast fluid, contrast media used in angiography, water, a gas, barium sulfate, or their equivalents, that performs this function by absorbing or attenuating radiation</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 1:57-2:1 Col. 2:46-63 Col. 3:10-38 Col. 3:42-48 Col. 3:51-65 Col. 4:1-11 Figs. 1, 3, 4</p> <p>'813 Pros. Hx. Am. &amp; Resp. 4-6</p> <p>Orton Decl. ¶¶ 37-38 &amp; n.2.</p> <p>Xoft Claim Constr. Order at 8-10</p> <p>See SenoRx Op. Br. at 14-17 &amp; Resp. Br. 14-15 and references cited therein.</p>



Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"inner, closed chamber"</p> <p>(claim 2)</p>	<p>"inner, closed chamber"</p> <p><u>Support:</u></p> <p>Verhey Decl. at 4:5-12.</p> <p>Verhey Reply Decl. ¶ 17.</p>	<p>"a compartment located completely inside of the outer chamber and closed off within the outer chamber"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 3:14-17 Col. 3:28-29 Col. 4:13-16 Figs. 1, 3, 4 Abstract</p> <p>Orton Decl. ¶ 39.</p> <p>Dempsey Tr. 112-13.</p> <p>Patrick Tr. 250-51.</p> <p>See SenoRx Op. Br. at 17-18 &amp; Resp. Br. 15-16 and references cited therein.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"plurality of radioactive solid particles" (claim 12)</p>	<p>"plurality of radioactive solid particles"</p> <p><u>Support:</u></p> <p>Verhey Decl., Ex. C at 10:24-27.</p> <p>Verhey Reply Decl. ¶ 27-29.</p>	<p>"two or more separate radioactive solid particles placed in the inner spatial volume at the same time"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 2:64-3:9 Fig. 5</p> <p>Orton Decl. ¶¶ 40-44.</p> <p>See SenoRx Op. Br. at 26-29 &amp; Resp. Br. 2-4 and references cited therein.</p> <p>See <i>also</i> support for "plurality of . . ." in '204 patent.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"plurality of radioactive solid particles placed at pre-determined locations"</p> <p>(claim 12)</p>	<p>"plurality of radioactive solid particles placed at pre-determined locations"</p> <p><u>Support:</u></p> <p>Verhey Decl., Ex C at 10:24-27.</p> <p>Verhey Reply Decl. ¶ 27-29.</p>	<p>"two or more separate radioactive solid particles placed in the inner spatial volume at the same time at more than one predetermined location"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Col. 2:64-3:6 Fig. 5</p> <p>Orton Decl. ¶¶ 40-44.</p> <p>See SenoRx Op. Br. at 29 &amp; Resp. Br. 2-4 and references cited therein.</p> <p>See <i>also</i> support for "plurality of . . ." in '204 patent.</p>

**EXHIBIT A.2**  
**Parties' Proposed Constructions Of Disputed Terms In U.S. Patent No. 6,413,204**

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"inner spatial volume"</p> <p>(claims 1, 2, 3)</p>	<p>"a region of space surrounded by an outer spatial volume and either enclosed by a polymeric film wall or defined by the outside surface of a solid radionuclide sphere"</p> <p><u>Support</u></p> <p>Abstract  Col. 2:7-33  Col. 2:36-68  Col. 3:19-45  Col. 3:57-65  Col. 3:66 – col. 4:5  Col. 4:4-14, 44-67  Col. 5:1-12  Col. 5:13-41  Col. 8:7-12  FIGS. 1, 3-7</p> <p>June 20, 2000 Office Action at 3-5</p> <p>December 20, 2000 Amendment at 8-19</p> <p>4-27-07 Claim Construction Order at 3-5, 28 (Case No. C-05-05312 RMW) ), and all evidence of record relating to the claim construction proceeding in that case.</p> <p>4-25-08 Order Denying Plaintiffs' Motion For Preliminary Injunction at 6-8.</p> <p>Verhey Decl. at 3:8-9, 3:17-4:4, Ex. C at 7:11-15.</p> <p>Verhey Reply Decl. ¶¶ 10-13.</p>	<p>"a region of space surrounded by an outer spatial volume that is either enclosed by a distensible polymeric film wall or defined by the outside surface of a solid radionuclide sphere"</p> <p><u>Support</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 2, 5, 7  Col. 2:39-51  Col. 2:56-67  Col. 3:57- 4:3  Col. 4:10-19  Col. 4:28-43  Col. 5:22-27  Col. 5:62-65  Claims 9, 11, 12, 31, 33</p> <p>'204 Pros. Hx. Am. &amp; Resp. 10-17</p> <p>Orton Decl. ¶¶ 22-24.</p> <p>Xoft Claim Constr. Order at 3-5, 16</p> <p>See SenoRx Op. Br. at 11-14 &amp; Resp. Br. 11-14 and references cited therein.</p> <p>See <i>also</i> support for "inner spatial volume" in '813 patent.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"three-dimensional isodose profile that is substantially similar in shape to the expandable surface element"</p> <p>(claim 1)</p>	<p>"three-dimensional isodose profile that is substantially similar in shape to the expandable surface element"</p> <p><u>Support:</u></p> <p>Verhey Decl. at 4:14-17.</p> <p>Verhey Reply Decl. ¶¶ 8-9</p>	<p>"a final three-dimensional isodose profile that is substantially the same shape as the outer spatial volume expandable surface and is concentric with the outer spatial volume expandable surface"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 4, 5, 7 Col. 3:49-51 Col. 2:63-67 Col. 5:9-36 Col. 5:50-54 Col. 5:58-61 Col. 6:17-23 Col. 6:29-30 Col. 6:35-39 Col. 7:39-42</p> <p>'204 Pros. Hx. Am. &amp; Resp. 8-18</p> <p>Orton Decl. ¶¶ 49-53.</p> <p>Verhey Decl. (Oct. 12, 2006) at 8.</p> <p>Williamson Tr. at 106-112.</p> <p>Dempsey Tr. at 75.</p> <p>See SenoRx Op. Br. at 8-11 &amp; Resp. Br. 9-11 and references cited therein.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"providing a controlled dose at the outer spatial volume expandable surface to reduce or prevent necrosis in healthy tissue proximate to the expandable surface"</p> <p>(claim 2)</p>	<p>"controlling the ratio of the dose at the expandable surface of the outer spatial volume to the prescribed dose at the depth of interest in the target tissue so that the dose at the expandable surface is not so high that it lethally damages cells in healthy tissue in contact with the expandable surface"</p> <p><u>Support:</u></p> <p>"Control" – "to hold in restraint, to check" (The American Heritage College Dictionary (3<sup>rd</sup> Ed. 1997), "AHD"))</p> <p>Abstract Col. 1:14 – col. 2:33 Col. 2: 36-68 Col. 2:46-51 Col. 2: 63-67 Col. 3: 1-16 Col. 3:24-26 Col. 3: 30-45 Col. 5:13 – col. 7:5 Col. 7:6-28 Col. 8:7-12 FIGS. 1, 3-7</p> <p>December 20, 2000 Amendment at 8-19</p> <p>4-27-07 Claim Construction Order at 23, 29 (Case No. C-05-05312 RMW) ), and all evidence of record relating to the claim construction proceeding in that case.</p> <p>Verhey Decl., Ex. C at 9:11-15, 10:9-14.</p> <p>Verhey Reply Decl. ¶¶ 18-20.</p>	<p>"controlling the ratio of the dose at the expandable surface of the outer spatial volume to the prescribed dose at the depth of interest in the target tissue so as to reduce or eliminate the risk of damage to healthy tissue in contact with the expandable surface as compared to devices in which the tissue is directly adjacent to the radiation source"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Fig. 7 Col. 2:7-33 Col. 2:51-55 Col. 5:66- 6:3 Col. 6:48-60 Col. 6:66-7:5 Col. 7:9-13 Col. 7:23-28</p> <p>Orton Decl. ¶ 54.</p> <p>See SenoRx Op. Br. at 18 &amp; Resp. Br. 16-18 and references cited therein.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"predetermined spacing...between said inner spatial volume and the expandable surface element"</p> <p>(claim 3)</p>	<p>"the distance between the inner spatial volume and the expandable surface element is determined in advance"</p> <p><u>Support:</u></p> <p>Abstract  Col. 1:14 – col. 2:33  Col. 2:36-68  Col. 2:46-51  Col. 2:63-67  Col. 3:1-16  Col. 3:24-26  Col. 3:30-45  Col. 3:57 – col. 4:3  Col. 4:44-67  Col. 5:1-12  Col. 5:13 – col. 6:28  Col. 6:61 – col. 7:5  Col. 7:23-32  Col. 7:58-64  col. 8:7-12  Figs. 1, 3-7</p> <p>December 20, 2000 Amendment at 8-19</p> <p>4-27-07 Claim Construction Order at 24-25, 29 (Case No. C-05-05312 RMW) ), and all evidence of record relating to the claim construction proceeding in that case.</p> <p>Verhey Decl., Ex. C at 10:16-18.</p> <p>Verhey Reply Decl. ¶¶ 6-7.</p>	<p>"fixed spacing, predetermined by one skilled in the art before administering radiation, between the wall or edge of the inner spatial volume and the wall of the expandable surface element, when inflated, which for each point on the wall or edge of the inner spatial volume, the distance to the closest point on the expandable surface element is the same (i.e., the inner spatial volume and expandable surface element are concentric and the same shape)"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 5, 7  Col. 5:22-27</p> <p>Pros Hx. Am. &amp; Resp. 10-18</p> <p>Orton Decl. ¶¶ 25-32.</p> <p>Verhey Decl. (Oct. 12, 2006) at 9-10.</p> <p>See SenoRx Op. Br. at 7-8 &amp; Resp. Br. 7-9 and references cited therein.</p> <p>See <i>also</i> support for "predetermined constant spacing . . ." in the '813 patent.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"plurality of solid radiation sources"</p> <p>(claim 17)</p>	<p>"plurality of solid radiation sources"</p> <p><u>Support:</u></p> <p>Verhey Decl. at 4:18-20.</p> <p>Verhey Reply Decl. ¶ 30-31.</p>	<p>"two or more separate radioactive solid sources placed in the inner spatial volume at the same time"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 3, 4  Col. 2:59-60  Col. 4:10-14  Col. 4:44-48  Col. 4:50-54  Col. 4:61-67  Col. 5:1-12  Col. 5:32-36  Col. 7:66-8:3  Claim 16</p> <p>See <i>also</i> support for "plurality of . . ." in '813 patent.</p> <p>Orton Decl. ¶¶ 40-44.</p> <p>See SenoRx Op. Br. at 26-29 &amp; Resp. Br. 2-4 and references cited therein.</p>



Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"isodose profile having a shape substantially similar to the shape of the outer spatial volume"</p> <p>(claim 17)</p>	<p>"isodose profile having a shape substantially similar to the shape of the outer spatial volume"</p> <p><u>Support:</u></p> <p>Verhey Decl. at 4:21-24.</p>	<p>"a final three-dimensional isodose profile that is substantially the same shape as the outer spatial volume expandable surface and is concentric with the outer spatial volume expandable surface"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 4, 5, 7 Col. 3:49-51 Col. 2:63-67 Col. 5:9-36 Col. 5:50-54 Col. 5:58-61 Col. 6:17-23 Col. 6:29-30 Col. 6:35-39 Col. 7:39-42</p> <p>'204 Pros. Hx. Am. &amp; Resp. 8-18</p> <p>Orton Decl. ¶¶ 49-53.</p> <p>Verhey Decl. (Oct. 12, 2006) at 8.</p> <p>Williamson Tr. at 106-112.</p> <p>Dempsey Tr. at 75.</p> <p>See SenoRx Op. Br. at 8-11 &amp; Resp. Br. 9-11 and references cited therein.</p>

**EXHIBIT A.3**  
**Parties' Proposed Constructions Of Disputed Terms In U.S. Patent No. 6,482,142**

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>[three-dimensional] "apparatus volume"  [configured to fill an interstitial void]</p> <p>(claims 1)<sup>1</sup></p>	<p>"a three-dimensional geometric solid composed of an expandable outer surface"</p> <p><u>Support:</u></p> <p>Abstract  Col. 2:20-53  Col. 2:60-64  Col. 3:20-36  Col. 3:55-62, 66-67  Col. 4: 1-2  Col. 4:27-42  Col. 5:36-65  Col. 6:11-29  Col. 8:1-32  Col. 8:52-59  FIGS 1, 3, 4</p> <p>February 27, 2002 Amendment at 6-10</p> <p>4-25-08 Order Denying Plaintiffs' Motion For Preliminary Injunction at 13-16.</p> <p>Verhey Decl. at 4:26-5:16.</p> <p>Verhey Reply Decl. ¶¶ 21-23.</p>	<p>"the three-dimensional region of space within the expandable outer surface"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Claims 2, 3, 4, 5, 6, 9  Figs. 1, 3, 3A, 4, 5  Col. 2:60-63  Col. 3:7-19  Col. 3:20-36  Col. 4:27-30</p> <p>Exhibit C to the Decl. of Henry C. Su (<i>Xoft</i> Cl. Constr. proceedings, dictionary definition of "volume")</p> <p>Orton Decl. ¶¶ 55-57.</p> <p>Cytec Cl. Constr. Br. at 19.</p> <p>See SenoRx Op. Br. at 18-22 &amp; Resp. Br. 18-21 and references cited therein.</p>

<sup>1</sup> Hologic believes that construction of the term(s) identified by SenoRx require(s) construction of the entire phrase in which the term appears. Thus, the preliminary construction proposed by Hologic construes the phrase identified by SenoRx in the context of the additional terms shown in brackets.

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"located so as to be spaced apart from the apparatus volume"</p> <p>(claim 1)</p>	<p>"located so as to be not on or touching the apparatus volume"</p> <p><u>Support:</u></p> <p>Abstract  Col. 2:20-53  Col. 3:20-25, 55-62, 66-67  Col. 4: 1-2  Col. 4: 27-30, 35-57  Col. 5:36-65  Col. 6:11-29  Col. 7:1-15  Col. 7: 49-55  Col. 8:1-32  Col. 8:52-59  FIGS 1, 3, 4</p> <p>February 27, 2002 Amendment at 6-10</p> <p>4-25-08 Order Denying Plaintiffs' Motion For Preliminary Injunction at 13-16.</p> <p>Verhey Decl. at 5:17-26.</p> <p>Verhey Reply Decl. ¶ 24.</p>	<p>"located outside (i.e., not within) the apparatus volume"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Orton Decl. ¶ 58.</p> <p>See SenoRx Op. Br. at 23 &amp; Resp. Br. 18, 21-23 and references cited therein.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>"asymmetrically located and arranged within the expandable surface"</p> <p>(claim 1)</p>	<p>"located and arranged so as not to be on the longitudinal axis of the expandable surface"</p> <p><u>Support:</u></p> <p>Abstract Col. 2:20-53 Col. 3:7-19 Col. 3:55-62, 66-67 Col. 4: 1-2 Col. 5:12-37 Col. 6:11-29 Col. 6:24-67 col. 7:1-15 Col. 8:1-32 Col. 8:52-59 FIGS 1, 3, 4</p> <p>February 27, 2002 Amendment at 6-10</p> <p>Verhey Decl. at 6:1-3.</p> <p>Verhey Reply Decl. ¶ 25.</p>	<p>"located and arranged inside the expandable surface so as not to be concentric with the expandable outer surface"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 3, 3A, 4, 5 Col. 2:55-64 Col. 2:65-3:19 Col. 5:11-35 Col. 6:42-67 Col. 7:1-8</p> <p>Orton Decl. ¶¶ 59, 61.</p> <p>See SenoRx Op. Br. at 25 &amp; Resp. Br. 24-25 and references cited therein.</p>

Disputed Claim Term	Hologic's Proposed Construction	SenoRx's Proposed Construction
<p>predetermined asymmetric isodose curves (claims 1, 8)</p>	<p>"predetermined isodose curves that are not symmetric with respect to the longitudinal axis of the apparatus volume"</p> <p><u>Support:</u></p> <p>Abstract Col. 2:20-53 Col. 2:60 – col. 3:1 Col. 3:7-19 Col. 5:12-37 Col. 6:11-29 Col. 6:24-67 Col. 7:28-48 Col. 7:62 – col. 8:3 Col. 8:1-32 Col. 8:52-59</p> <p>February 27, 2002 Amendment at 6-10</p> <p>Verhey Decl. at 6:4-6.</p> <p>Verhey Reply Decl. ¶ 26.</p>	<p>"isodose curves determined before radiation is administered which are not substantially the same shape as the apparatus volume and/or not concentric with the apparatus volume"</p> <p><u>Support:</u></p> <p>Plain meaning of the claim language.</p> <p>Figs. 1, 3A, 4 Col. 2:55-64 Col. 2:65-3:19 Col. 5:11-35 Col. 6:42-67 Col. 7:1-8</p> <p>Orton Decl. ¶¶ 60-61.</p> <p>Verhey Depo. Tr. at 146.</p> <p>Williamson Tr. 310-16.</p> <p>See SenoRx Op. Br. at 23-25 &amp; Resp. Br. 23-24 and references cited therein.</p>

## **Exhibit B**

**EXHIBIT B.1**  
**Parties' Proposed Constructions Of Agreed Terms In U.S. Patent No. 5,913,813**

<b>Claim Term</b>	<b>Agreed Proposed Construction</b>
"outer, closed, inflatable, chamber" (claim 1)	"outer, closed, inflatable chamber"
"predetermined locations" (claim 12)	"more than one predetermined location"

**EXHIBIT B.2**  
**Parties' Proposed Constructions Of Agreed Terms In U.S. Patent No. 6,413,204**

<b>Claim Term</b>	<b>Agreed Proposed Construction</b>
"outer spatial volume" (claims 1, 2, 17)	"a region of space defined by an expandable surface element and surrounding an inner spatial volume"